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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/064,973 04/23/98 VIDOLIN

M 3.0-001

EXAMINER

PM82/0509

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WOODBIDGE NJ 07095

MILLER, W

ART UNIT

PAPER NUMBER

3628

DATE MAILED:

05/09/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/064,973

Applicant(s)
Vidolin et al.

Examiner
William Miller

Group Art Unit
3628



☒ Responsive to communication(s) filed on Apr 24, 1900

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-7, 9-20, and 22-26 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-7, 9-20, and 22-26 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Continued Prosecution Application

The request filed on 04-24-00 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/064,973 is acceptable and a CPA has been established. An action on the CPA follows.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9-20, and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doppenschmitt (U.S. Pat. No. 1,694,703) in view of Knodel (U.S. Pat. No. 4,179,833).

Doppenschmitt discloses a bracelet/necklace comprising: an outer fabric material (2); an inner elastic material (3); and a plurality of closed loop members (1) having indicia thereon (page 2, lines 1-3).

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With regards to claims 1 and 13, Doppenschmitt fails to disclose a releasable closure means for opening and closing the ends of the bracelet/necklace. Knodel discloses a resilient bracelet having a releasable closure means (12) for opening and closing the ends of the bracelet in the form of hook and loop fasteners (Velcro). Therefore, as taught by Knodel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bracelet/necklace of Doppenschmitt to include a releasable closure means for opening and closing the ends of the bracelet in the form of hook and loop fasteners (Velcro) thereby enhancing securement thereof to the body.

With regards to claims 2, 3, 5, 14-16, and 18, Doppenschmitt fails to disclose the specific outer fabric material, inner elastic material, and closed loop material as claimed by the applicant. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the specific outer fabric material, inner elastic material, and closed loop material as claimed by the applicant, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With regards to claims 1, 6, 7, 9, 10, 13, 19, 20, 22, 23, 25, and 26, Doppenschmitt fails to disclose the indicia being imprinted or embroidered and of the specific design, symbol, or color as claimed by the applicant. However, it is being viewed as an obvious matter of engineering design choice to modify the bracelet/necklace by utilizing an indicia being imprinted or embroidered and of the specific design, symbol, or color as claimed by the applicant, since the applicant has not disclosed that the specific design or type of indicia solves any stated problem or is for any particular purpose and it appears that the bracelet/necklace would perform equally well with any suitable design or type of indicia. Further, with regards to claims 7 and 20, the applicant is

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reminded that method limitations, namely gluing, sewing, stapling, heat sealing, or laser fusion, carry no patentable weight in an article claim.

With regards to claim 12, although Doppenschmitt, as modified by Knodel, fails to disclose the specific method of using the bracelet as claimed by the applicant, Doppenschmitt, as modified by Knodel, does disclose all the claimed structure of the bracelet and therefore it is being viewed as obvious to one of ordinary skill in the art at the time the invention was made to use the bracelet as claimed by the applicant.

Response to Amendment

The applicant argues that Doppenschmitt fails to disclose closed loop members slidably removable from the bracelet, i.e. exchangeable, and also fails to disclose the closed loop members having any indicia thereon for identification purposes. The examiner disagrees as the beads (1) disclosed in Figures 3 and 4 by Doppenschmitt clearly define a "closed loop member" and are substantially similar in structure to the closed loop members (60) shown in the drawings of the instant application. Further, according to page 1, lines 106-110, the closed loop members, or beads (1), have openings therethrough such that the beads are slidably strung upon the bracelet. Since the beads are slidably strung on the bracelet, the beads obviously are also slidably removable from the bracelet via their openings and therefore "exchangeable" as claimed by the applicant. Lastly, according to page 1, line 110, through page 2, line 3, Doppenschmitt does disclose indicia for identification purposes as the beads are "suitable colored or ornamented in any desired way to provide an article of the desired design and degree of ornamentality".

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Miller whose telephone number is (703) 305-3978.

W.L.M.



May 4, 2000



TERRY LEE MELIUS
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